

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3534

IN THE MATTER OF:

Served July 31, 1990

Application of TRANSPORTATION)
MANAGEMENT SERVICES, INC., for a)
Certificate of Public Convenience)
and Necessity Authorizing Charter)
Service for the Account of)
SCHEDULED AIRLINE TRAFFIC OFFICES,)
INC.)

Case No. AP-90-18

By application filed April 20, 1990, Transportation Management Services, Inc. (TMSI or applicant), a New York corporation 1/, seeks a certificate of public convenience and necessity to transport passengers, together with baggage in the same vehicles as passengers, in charter operations, including certain airport shuttle service, between points in the Metropolitan District 2/ pursuant to contract with Scheduled Airline Traffic Offices, Inc. (SATO).

A public hearing was held June 7, 1990, pursuant to Order No. 3498, served May 4, 1990. Two operating witnesses testified for applicant, and a representative of SATO testified in support of the application. The matter is uncontested.

SUMMARY OF EVIDENCE

TMSI's president, Mr. James J. McLary testified regarding applicant's corporate structure and general operations. Mr. McLary has over 20 years experience in the transportation industry. His experience includes seven years as administrator of a 145-bus system in Madison, WI. He has been with TMSI, a wholly-owned subsidiary of Multi-Systems, Inc., since 1986. Applicant brokers and performs passenger transportation for hire. It operates or manages transportation services in five states, as pertinent here it operates four passenger shuttle services solely within Northern Virginia: (1) the Tyson's shuttle which operates between the West Falls Church Metro Station and the Tyson's Corner "employment area;" (2) two employee hauling" services in the Vienna area; and (3) a shuttle between the Pentagon and a distant parking area.

1/ Order No. 3498, incorrectly referred to TMSI as a Massachusetts corporation.

2/ To the extent this application could be construed to seek authority to transport passengers solely within the Commonwealth of Virginia, it was dismissed pursuant to the Compact, Title II, Article XII, Section 1(b) by Order No. 3498.

Respecting the proposed operation, TMSI's contract with SATO requires service between 7 a.m. and 7 p.m., Monday through Friday, excluding federal holidays. The contract provides for the use of two vehicles with a third vehicle available for back-up. The contract states that "[s]tops will generally include National Airport, Dulles Airport, the Pentagon, Crystal City area, the Navy Annex, the downtown District of Columbia, and SATO Travel corporate offices." As presented in this application, TMSI intends to operate two shuttles. One shuttle will transport passengers between Washington National Airport, Arlington County, VA, on the one hand, and, on the other, Navy Annex, Columbia Pike; Washington Flyer Terminal, 16th and K Streets, N.W.; United States Department of Commerce, 14th and E Streets, N.W.; United States Department of Housing and Urban Development, 7th and E Streets, S.W.; and the United States Department of Transportation, 7th Street and Independence Avenue, S.W. That shuttle will make 12 trips a day, stopping at each service point approximately once every hour. The other shuttle will transport passengers between Washington Dulles International Airport, Loudoun County, VA, on the one hand, and, on the other, the Washington Flyer Terminal, 16th and K Streets, N.W.; the United States Department of Commerce, 14th and E Streets, N.W.; the United States Department of Housing and Urban Development, 7th and E Streets, S.W.; Navy Annex, Columbia Pike; and Washington National Airport, Arlington County, VA. That shuttle will operate twice a day. Under the contract SATO will determine routes and schedules and policies regarding the level and quality of service to be provided. The contract requires TMSI to provide vehicles, drivers, driver training, vehicle insurance and maintenance, fuel, regulatory compliance, and certain reports. In return for TMSI's service, the one-year contract provides that SATO will make 13 payments of \$17,897.04.

Applicant's statement of financial condition as of January 27, 1990, shows current assets of \$503,795, including \$91,949 cash; fixed assets, after allowance for depreciation, of \$49,391; and other assets of \$77,134. On January 27, 1990, TMSI had current liabilities of \$320,078, including "accruals" of \$237,454, and "proprietors' equity" of \$310,242, including earned surplus for the fiscal year of \$108,975. The figure for fixed assets represents office equipment; TMSI owns no revenue vehicles. Mr. McLary testified that applicant's balance sheet was essentially unchanged as of the date of the hearing. For the nine months ended January 27, 1990, TMSI had operating revenue of \$2,819,584 and operating expenses of \$2,645,492, resulting in an operating ratio of 94. TMSI has been profitable for the past two years and projects operating revenue from the proposed service equaling concomitant operating expenses during the first 12 months of operations.

Under TMSI's corporate and operating structure, one individual is placed in charge of each contract. Mr. Irvin, who also testified, will be responsible for overall supervision of the contract operations at issue in this case. In addition, TMSI's general manager for Northern Virginia operations will be directly involved in applicant's day-to-day operations for the account of SATO. Two supervisors will make routine inspections to assure that drivers are properly attired and are performing operations according to schedule. Other support

staff in TMSI's office will be assigned to certain administrative and financial aspects of the proposed service. These aspects include ensuring that employees are bonded and protected by workmen's compensation and unemployment compensation and the provision of monthly statistical reports 3/ to SATO.

Mr. McLary is familiar with the Compact and the Commission's rules and regulations and intends to assure TMSI's compliance with them.

Mr. Thomas D. Irvin, currently transportation manager and consultant for TMSI, will be responsible for the day-to-day administration and supervision of the proposed service. Mr. Irvin had eight years experience in the transportation field before coming to TMSI. As transportation manager at the University of Virginia's Department of Parking and Transportation, Mr. Irvin was responsible for fleet replacement, long-range planning, labor relations, and hiring. Immediately before coming to TMSI, Mr. Irvin was safety director and one of two operations managers for Tourmobile Sightseeing. Tourmobile operates 34 vehicles and employs between 60 and 90 drivers. It has over 300 employees during peak season. Mr. Irvin was responsible for all Tourmobile's safety and training programs including vehicle safety inspection and related record keeping, driver training, and company health programs. In addition Mr. Irvin acted as liason with various federal agencies including the National Park Service. Mr. Irvin's experience has also included driving, scheduling, dispatch, rate structure, and accident investigation.

TMSI plans to recruit drivers for the proposed service through general advertising, referrals from current drivers, and a sharing mechanism with other contract operations in Northern Virginia. Drivers will be required to be appropriately licensed, pass the physical prescribed by the United States Department of Transportation, have good driving records, and be able to communicate in English. All drivers must complete TMSI's in-service training program which consists of eight hours of classroom work including familiarization with operating and corporate policies and the National Safety Council's defensive driving course. After completion of this classroom work, each "new hire" is familiarized with his assigned route, the type vehicle he will operate, and safety regulations. Each new driver must observe an experienced driver on the road for four hours, after which the new driver is observed on the road by an experienced driver for eight hours. After follow-up testing, a driver is allowed to drive without supervision. Within the first six months of employment drivers receive training in passenger assistance techniques. TMSI offers annual financial incentives to drivers having no accidents, no complaints, and exemplary attendance. The proposed service will require four drivers a day (two working at any one time). The drivers will be TMSI employees, and applicant will try to dedicate drivers to specific vehicles and routes.

3/ TMSI will furnish SATO with monthly reports showing miles operated, any and all "incidents", any complaints, all accidents, list of all maintenance performed, and anything else of which TMSI thinks SATO should be aware.

Three vehicles have been ordered for the proposed service. Until these vehicles are received, applicant will use vehicles already in TMSI's pool. These vehicles are leased. The three vehicles on order are 1990 model extended-roof vans, each having a manufacturer's designed seating capacity of 12 passengers or less (including the driver) and equipped with two-way radio, climate control, and storage compartment for luggage. The vehicles will be stored at a lot near the Pentagon and will be serviced at a qualified maintenance facility on a schedule exceeding that suggested by the vehicle's manufacturer. Each driver is responsible for a pre-trip inspection of the vehicle he is to operate. If any deficiencies are identified, the vehicle is not considered safe for passenger transportation, and a replacement vehicle is obtained. A supervisor then follows up, by scheduling maintenance with appropriate vendors and, later, by making sure that the maintenance has been performed properly. Mr. Irvin is familiar with the Commission's safety regulations and intends to assure TMSI's compliance with them. Mr. Irvin is also familiar with the Compact and the Commission's rules and regulations.

Mr. Irvin will be responsible for oversight of the proposed service. If additional service points or routes are added, Mr. Irvin would be responsible for developing those routes and schedules and for actual on-site investigation of the precise sites where TMSI would be expected to, and could, stop.

Ms. Suzanne Morehouse, SATO's assistant national operations manager, testified on that organization's behalf in support of the application. SATO is a full service travel company owned entirely by seven major airlines. SATO specializes in providing travel services to government entities. As an enhancement incident to various contracts with specific federal government agencies, SATO agreed to provide those agencies shuttle service between the agencies' office locations, on the one hand, and, on the other, Washington National Airport, Arlington County, VA, and Washington Dulles International Airport, Loudoun County, VA. SATO agreed to provide the service at no cost to the agencies or its personnel. The contract describing the proposed service reserves the right to SATO to vary routes and schedules in order that SATO may offer similar service to other agencies at other locations as an enhancement to similar contracts. SATO selected TMSI to perform the service after determining that SATO could not perform the transportation "in-house." SATO's preferred vendors (car rental companies) were contacted next; however, it was determined that the contract duties were not within their abilities. SATO then solicited bids on the contract. TMSI's was the sole responsive bid. SATO was primarily looking for a transportation company that would provide "no cost" quality service for its customers of the type here proposed; it found TMSI "willing, . . . able, and very capable" of providing the shuttle service at issue in this case. Ms. Morehouse believes the public will be well-served by TMSI.

DISCUSSION AND CONCLUSIONS

In determining whether to grant a certificate of public convenience and necessity, the Commission is governed by the standards enunciated at Title II, Article XII, Section 4(b) of the Compact which provides:

. . . the Commission shall issue a certificate . . . if it finds, after hearing held upon reasonable notice, that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity

Based on a review of the record in this case, the Commission finds applicant capable of providing the proposed service and willing to conform to the Compact and the rules, regulations, and requirements of the Commission thereunder.

Applicant is a motor carrier experienced in providing shuttle service of the type proposed. Service will be offered in new vehicles, appropriate to contract requirements, and driven by qualified drivers. Arrangements have been made for garaging, inspecting, maintaining, and repairing vehicles. Applicant is financially healthy and fiscally capable of instituting service as proposed. Applicant, through its president and transportation manager, is familiar with the Compact and the Commission's rules and regulations, including its safety regulations, and intends to comply with them.

In determining whether applicant has satisfied its burden of proving that the public convenience and necessity require the proposed service, the Commission has relied on the test enunciated in Pan-American Bus Lines Operation (1 MCC 190, 203 [1936]) and its progeny. The Pan-American test consists of three parts as follows:

. . . whether the new operation or service will serve a useful public purpose, responsive to a public demand or need; whether this purpose can and will be served as well by existing lines or carriers; and whether it can be served by applicant with the new operation or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest.

This application seeks authority to serve a single account. Based on the testimony of the representative of that account, the Commission finds TMSI has proved that its service, as proposed, meets an expressed public need, thereby serving a useful purpose between Washington National Airport, Arlington County, VA, and Washington Dulles International Airport, Loudoun County, VA, on the one hand, and

on the other, points in the Metropolitan District as specified by contract with SATO, executed and thereafter amended for the purpose of serving agencies of the federal government.

SATO's representative testified regarding the attractiveness of the proposed service to the government agencies with which SATO contracts and the search that SATO conducted to find a carrier appropriate to its needs. The testimony of SATO's representative shows that transportation of the type proposed by applicant is needed. The record is devoid of any evidence to rebut this showing. Thus, based on the record in this case, the Commission finds that the public need for the proposed service will not be served as well by existing carriers as it would be by applicant. Lastly, it is observed that there is no evidence of record tending to show that the operations of existing carriers will be impaired contrary to the public interest.

THEREFORE, IT IS ORDERED:

1. That Transportation Management Services, Inc., is hereby conditionally granted, contingent upon timely compliance with the terms of this order, authority to transport passengers, together with their baggage in the same vehicles, in charter operations between points in the Metropolitan District for the account of Scheduled Airline Traffic Offices, Inc., pursuant to contract executed April 18, 1990, and amended April 27, 1990, and any continuous extensions thereto and amendments thereto, for transportation of passengers between Washington National Airport, Arlington County, VA, or Washington Dulles International Airport, Loudoun County, VA, on the one hand, and, on the other, points in the Metropolitan District, restricted against transportation solely within the Commonwealth of Virginia and further restricted to transportation of passengers in vehicles having a manufacturer's designed seating capacity of 12 passengers or less, including the driver.

2. That in all other respects the application is hereby denied.

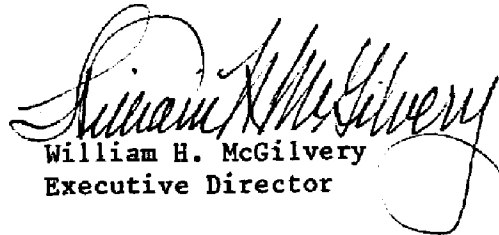
3. That Transportation Management Services, Inc., is hereby directed, within 30 days of the service date of this order, to have on file with the Commission the following: (a) two copies of its WMATC Tariff No. 1 consisting of its contract with Scheduled Airline Traffic Offices, Inc., as herein proposed, together with a tariff cover sheet pursuant to Commission Regulation No. 55; (b) an equipment list indicating make, year, model, serial number, vehicle number, if any, manufacturer's designed seating capacity (including driver), and license plate number (with jurisdiction) for each vehicle to be used in revenue operations; (c) evidence of ownership or a lease in accordance with Commission Regulation No. 69 for each vehicle to be used in revenue operations; (d) an affidavit of identification of vehicles pursuant to Commission Regulation No. 67 for which purpose WMATC No. 170 is hereby assigned and showing that all revenue vehicles have been appropriately identified; (e) a certificate of insurance in

accordance with Commission Regulation No. 62; and (f) a revised and itemized depreciation schedule or, if appropriate, an explanation of the depreciation schedule filed with its application.

4. That unless Transportation Management Services, Inc., complies with the requirements of the preceding paragraph within 30 days of the service date of this order, or such additional time as the Commission may direct or allow, the grant of authority contained herein shall be void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

5. That upon compliance with the conditions set forth in the preceding paragraphs, a certificate of public convenience and necessity will be issued to Transportation Management Services, Inc., in the form and as worded in the Appendix to this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director

NO. 170

TRANSPORTATION MANAGEMENT SERVICES, INC.

By Order No. 3534 of the Washington Metropolitan Area Transit Commission issued July 31, 1990.

AFTER DUE INVESTIGATION, it appearing that the the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order No. 3534;

THEREFORE, IT IS ORDERED that the said carrier is hereby granted this certificate of public convenience and necessity as evidence of the authority of the holder thereof to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege herein granted to the said carrier.

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

IRREGULAR ROUTES

CHARTER OPERATIONS, transporting passengers, together with their baggage in the same vehicles, between points in the Metropolitan District,

RESTRICTED (1) to transportation for the account of Scheduled Airline Traffic Offices, Inc., pursuant to contract executed April 18, 1990, and amended April 27, 1990, and any continuous extensions thereto or modifications thereto for transportation of passengers between Washington National Airport, Arlington County, VA, or Washington Dulles International Airport, Loudoun County, VA, on the one hand, and, on the other, points in the Metropolitan District, (2) to transportation in vehicles having a manufacturer's designed seating capacity of 12 passengers or less (including the driver), and (3) against transportation solely within the Commonwealth of Virginia.

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous, and adequate service to the public in pursuance of the authority granted herein, and that failure to do so shall constitute sufficient grounds for suspension, change or revocation of the certificate.